

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF GEORGIA  
SAVANNAH DIVISION**

<b>ANDREA MONROE,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Civil Action No.</b>
	)	
<b>SAMSUNG SDI CO., LTD, a Korean</b>	)	
<b>Corporation, SAMSUNG SDI AMERICA, INC.,</b>	)	
<b>a California Corporation, SEV BERWICK</b>	)	
<b>STORE LLC, d/b/a SOUTHEAST VAPES AND</b>	)	
<b>E-CIGS, a Georgia Limited Liability Company,</b>	)	
<b>HOHM TECH, INC., a California Corporation,</b>	)	
<b>JOHN DOES (A-Z), and ABC Inc. (1-100)</b>	)	
	)	
<b>Defendants.</b>	)	

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**NOTICE OF AND PETITION FOR REMOVAL**

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COMES NOW DEFENDANT SAMSUNG SDI AMERICA, INC., (“Samsung SDIA”), and by and through its undersigned counsel of record, herewith files this Notice of and Petition for Removal in the above-referenced matter. Samsung SDI America, Inc. shows this Honorable Court as follows:

1.

On or about November 16, 2021, Plaintiff Andrea Monroe filed a Complaint in the State Court of Chatham County against Samsung SDI Co., Ltd., (Samsung SDI), Samsung SDI America, Inc. (Samsung SDIA), SEV Berwick Store, LLC, d/b/a Southeast Vapes and E-CIGS (SEV Berwick), Hohm Tech, Inc. (Hohm Tech) and John Does and ABC Inc. (1-100).

2.

Defendant Samsung SDIA was served with process of the Complaint on November 17, 2021.

3.

Pursuant to 28 U.S.C. § 1446(a), the Complaint, and all other process, pleadings and other papers or exhibits of every kind in the State Court of Chatham County regarding this matter are attached hereto as Exhibit 1.

4.

The above-described action is a civil action in which this Court has original jurisdiction under the provisions of 28 U.S.C. § 1332(a)(1) and is one which may be removed to this Honorable Court by Defendant pursuant to the provisions of 28 U.S.C. § 1441, in that this is a civil action where the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs, and is between completely diverse parties.

5.

Plaintiff is a resident and citizen of Effingham County, Georgia living under the laws of the State of Georgia. (Pltf. Complaint, ¶ 3)

6.

Defendant Samsung SDI is a Korean corporation with a principal place of doing business in South Korea. It has not yet been served with process.

7.

Defendant Samsung SDIA is a corporation formed and existing in the State of California with a principal place of doing business in the State of California.

8.

SEV Berwick is a Georgia limited liability company with a principal place of doing business in South Carolina, but for purposes of establishing jurisdiction, this Court looks solely of the residence of an LLC's members. SEV Berwick's members are both residents and citizens of the State of South Carolina. Because all of the members of the Defendant are diverse from Plaintiff, Diversity of citizenship is established. Rolling Greens MHP, LP v. Comcast SCH Holdings, LLC, 374 F.3d 1020, 1022 (11th Cir. 2004); Beale Bank USA v. Kelley, No. 2:13-cv-00045-WCO, 2014 WL 12577114, \*1 (N.D. Ga. March 11, 2014); Glovis Al., LLC v. Richway Transportation Servs. Inc. No. 18-cv-00521-KD – N - 2019 WL 4039626, \*6 (S.D. Al. August 27, 2019).

9.

Defendant Hohm Tech is a California corporation with a principal place of doing business in the State of California. It has declared bankruptcy. *In re Hohm Tech, Inc.*, 6:21-bk-14150-MH (Bankr. C.D. Cal.).

10.

The above-styled civil action is for “special damages for medical bills incurred on Jordan Brewer’s behalf prior to him reaching the age of majority...” Complaint, Ad Damnum Clause. Based on evidence presented in a prior case, these damages are alleged to be \$144,972.88.”

11.

It is facially apparent from Plaintiff’s Complaint and other pleadings filed of record that the injuries she alleges to have sustained lead to the plausible conclusion that more than \$75,000.00, exclusive of interest and costs, is at stake. It is indeed a “plausible allegation” that the

\$75,000.00 amount in controversy set forth in 28 U.S.C. § 1332(a) is satisfied. Pretka v. Colter City Plaza II, 608 F.3d 744, 752 (11th Cir. 2010).

12.

All properly joined, added, and served Defendants have consented in writing to this removal as reflected by the attached Exhibit “B”. Defendant Hohm Tech is currently in bankruptcy proceedings and is not required to consent to remove but has given its consent notwithstanding the current implications of its bankruptcy. Kline v. Foster, No. CV20-2953, 2021WL38948, at\*3 (E.D. La. Feb. 4, 2021) (courts have concluded that a bankrupt defendant has no real interest in the outcome of the action and the bankruptcy stay precludes any plaintiff from pursuing a claim against said defendant). Accordingly, it is unnecessary for a bankrupt party to join in the removal because the bankruptcy stay effectively precludes the issuance or employment of process against it. The bankrupt defendant cannot be said to be properly joined under 28 U.S.C. 1446(b)(2)(A)). Defendant Samsung SDI Co., Ltd. does not need to consent because it has not been served.

13.

Venue for this removal is proper in this Court because the United States District Court for the Southern District of Georgia, Savannah Division, is the federal jurisdiction embracing the State Court of Chatham County, Georgia, where the State Court action was originally filed and where the facts and circumstances giving rise to the Plaintiff’s injuries are alleged to have transpired.

14.

Defendants are filing this Notice of and Petition for Removal within thirty (30) days after service of Plaintiff’s Complaint in accordance with 28 U.S.C. § 1446. Written notice of this filing of this Notice of and Petition for Removal will be given to Plaintiff promptly after the filing of this Petition as is required by law.

15.

A true and correct copy of this Notice of and Petition for Removal will be filed with the Clerk of the State Court of Chatham Count, State of Georgia, promptly after the filing of this Notice of and Petition for Removal as it required by law.

16.

Accordingly, Defendant Samsung SDI America, Inc. respectfully requests that the above-referenced state court suit filed in the State Court of Chatham County (Andrea Monroe vs. Samsung Co., Ltd. a Korean Corporation, Samsung SDI America, Inc., a California Corporation, SEV Berwick Store LLC, d/b/a Southeast Vapes and E-CIGS, a Georgia Limited Liability Company, Hohm Tech, Inc., a California Corporation, John Does (A-Z), and ABC, Inc. (1-100). In the State Court of Chatham County, State of Georgia, Civil Action No: STCV21-02161) be removed to the United States District Court for the Southern District of Georgia, Savannah Division.

RESPECTFULLY SUBMITTED, this 16<sup>th</sup> day of December, 2021.

BOUHAN FALLIGANT LLP

/s/ Todd M. Baiad

TODD M. BAIAD

Georgia State Bar No. 031605

LUCAS D. BRADLEY

Georgia State Bar No. 672136

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	)	
<b>Defendants.</b>	)	

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**CERTIFICATE OF SERVICE**

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I, Todd M. Baiad, do hereby certify that I have this day served the following counsel of record with a copy of the foregoing Notice of and Petition for Removal by U. S. first class mail with proper postage affixed thereon addressed as follows:

William H. Hunter, Esq.  
George T. Major, Esq.  
Oliver Maner, LLP  
218 W. State Street  
P O Box 10186  
Savannah, Georgia 31412

RESPECTFULLY SUBMITTED, this 16<sup>th</sup> day of December, 2021.

*[signature page to follow]*

BOUHAN FALLIGANT LLP

/s/ Todd M. Baiad

TODD M. BAIAD

Georgia State Bar No. 031605

LUCAS D. BRADLEY

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